

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DAVID GIBSON,

22-cv-1122 (JGK)

Plaintiff,

ORDER OF SERVICE

- against -

SUPERINTENDENT BURNETTE, ET AL.,

Defendants.

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JOHN G. KOELTL, District Judge:

The plaintiff, who is currently incarcerated in Marcy Correctional Facility, paid the filing fees to commence this pro se action. He brings claims under 42 U.S.C. § 1983, alleging that the defendants violated his rights while he was incarcerated at Fishkill Correctional Facility. As set forth below, the Court directs (1) service on the named defendants and (2) the Attorney General for the State of New York to identify the Fishkill John and Jane Doe defendants.

**A. Service on Defendants Burnett, Akinyombo, and Lebron**

The Clerk of Court is directed to issue summonses as to defendants Superintendent Edward Burnett; A. Akinyombo, Deputy Superintendent of Health Services; and Danielle Lebron, R.N. The plaintiff is directed to serve the summons and complaint on each defendant within 90 days of the issuance of the summonses. If within those 90 days, the plaintiff has not either served the defendants or requested an extension of time to do so, the Court

may dismiss the claims against the defendants under Rules 4 and 41 of the Federal Rules of Civil Procedure for failure to prosecute.

**B. John and Jane Doe Defendants**

Under Valentin v. Dinkins, a pro se litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, the plaintiff supplies sufficient information to permit the New York State Department of Corrections and Community Supervision (DOCCS) to identify Deputy of Security John Doe, Sergeant John Doe, and Nurse Administrator Jane Doe named in the complaint. It is therefore ordered that the New York State Attorney General, who is the attorney for and agent of DOCCS, must ascertain the identity and badge number of each of the John and Jane Doe defendants whom the plaintiff seeks to sue here and the addresses where these defendants may be served. The Attorney General must provide this information to the plaintiff and the Court within sixty days of the date of this Order. Within thirty days of receiving this information, the plaintiff must file an amended complaint naming the John and Jane Doe defendants. The amended complaint will replace, not supplement, the original complaint. An amended complaint form that the plaintiff should complete is attached to this Order. Once the plaintiff has filed an amended complaint, the Court will screen the amended complaint and, if necessary, issue an order directing the Clerk of Court to issue summonses for service on the named John and Jane Doe defendants.

**C. Local Civil Rule 33.2**

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court's website under "Forms" and are entitled "Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents." Within 120 days of service of the complaint, the defendants must serve responses to these standard discovery requests. In their responses, the defendants must quote each request verbatim.<sup>1</sup>

**CONCLUSION**

The Clerk of Court is directed to issue summonses as to Defendants Burnett, Akinyombo, and Lebron, and to forward the summons to the plaintiff for service on the defendants.

The Clerk of Court is directed to mail a copy of this Order and the complaint to the New York State Attorney General at: 28 Liberty Street, New York, NY 10005.

The Clerk of Court is further directed to mail a copy of this Order to the plaintiff, together with an information package, and to note service on the docket. An amended complaint form is attached.


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<sup>1</sup> If the plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, the plaintiff may request them from the Pro Se Intake Unit.

Local Civil Rule 33.2 applies to this action.

SO ORDERED.

Dated: New York, New York  
March 15, 2022

  
\_\_\_\_\_  
John G. Koeltl  
United States District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
\_\_\_\_\_  
Write the full name of each plaintiff.

-against-

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

\_\_\_\_ CV \_\_\_\_  
(Include case number if one has been assigned)

**AMENDED  
COMPLAINT**  
(Prisoner)

Do you want a jury trial?  
☐ Yes ☐ No

**NOTICE**

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

**I. LEGAL BASIS FOR CLAIM**

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: \_\_\_\_\_

**II. PLAINTIFF INFORMATION**

Each plaintiff must provide the following information. Attach additional pages if necessary.

\_\_\_\_\_  
First Name

\_\_\_\_\_  
Middle Initial

\_\_\_\_\_  
Last Name

\_\_\_\_\_  
State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

\_\_\_\_\_  
Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

\_\_\_\_\_  
Current Place of Detention

\_\_\_\_\_  
Institutional Address

\_\_\_\_\_  
County, City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

**III. PRISONER STATUS**

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: \_\_\_\_\_

**IV. DEFENDANT INFORMATION**

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code





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**INJURIES:**

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

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**VI. RELIEF**

State briefly what money damages or other relief you want the court to order.

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**VII. PLAINTIFF'S CERTIFICATION AND WARNINGS**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated		Plaintiff's Signature
First Name	Middle Initial	Last Name
Prison Address		
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: \_\_\_\_\_